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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,837	06/05/2007	Dov Zimbalista	P-8765-US	6230
49443 7590 05/11/2010 Pearl Cohen Zedek Latzer, LLP 1500 Broadway 12th Floor New York, NY 10036				
EXAMINER				
ROCCA, JOSEPH M				
ART UNIT		PAPER NUMBER		
3616				
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05/11/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/577,837

Applicant(s)

ZIMBALISTA ET AL.

Examiner

JOSEPH ROCCA

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 5, 9, 17, 29, 31-33, 36, 40 and 42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 9, 17, 29, 31-33, 36, 40 and 42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 May 2006 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-544)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 5/1/06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: Applicant use of the non-English phrase "*mutatis mutandis*" is inconsistent with United States patent practice. Since, the phrase is not in English one of ordinary skill in the art cannot readily comprehend this aspect of the disclosure. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 5, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Hopper (US Pub. App. 2003/0159861).

Hopper discloses a maneuverable device for transporting a load over a surface, comprising:

a platform **120** for supporting a load to be transported;

a base **118** comprising a plurality of castors **130-133**;

at least one auxiliary wheel **136 or 138** mounted for rotation about at least one fixed axis with respect to said base;

a power unit **192** configured for providing motive power to said at least one auxiliary wheel **136 or 138**;

a driving unit **140** for steering said device, wherein the driving unit operates independently of said at least one auxiliary wheel (this is met because the driving unit causes the castors 130-133 to rotate and has no effect on turning the at least one auxiliary wheels 136 or 138).

Regarding claim 2, Hopper discloses a deployment/retraction mechanism for selectively deploying and retracting said at least one auxiliary wheel **136** with respect to said surface, wherein when deployed said at least one auxiliary wheel is in traction contact with said surface, and wherein when retracted said at least one auxiliary wheel is distanced away from said surface (Figs. 3-4, ¶ 0048).

Regarding claim 5, Hopper discloses that said platform is mounted to said base by means of a pair of longitudinally spaced support columns **42, 44**.

Regarding claim 29, Hopper discloses that said device is in the form of a bed for transporting a patient along a ground surface (the device is a bed).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hopper in view of Heimbrock (US 5,987,671). Hopper discloses all limitations of claim 9 except for said driving unit being retractably mounted to said platform. As discussed above Hopper's handles 140 are interpreted as the driving unit. Heimbrock teaches

another hospital bed with similarly shaped handles **66, 68** and teaches that these handles retract into the bed surface (are drawn back towards the bed), so as to maximize a caregiver's access to the patient (Fig. 4; 9:40-46). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified Hopper such that said driving unit is retractably mounted to said platform, in view of Heimbrock, so as to achieve the desirable result of as to maximizing a caregiver's access to the patient.

Regarding claim 17, the combination of Hopper in view of Heimbrock further teaches that said castors are configured to selectively operate in any one of at least two modes, including a neutral mode and a brake mode (specifically, said brakes are taught by Heimbrock – "Contact of the brake shoes with wheel 132 of each caster 44 stops rotation and swiveling movement of wheels 132 and casters 44" at 12:42-45).

6. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hopper in view of Ezenwa (US 5,193,633). Hopper discloses all limitations of claim 31 except for said device is in the form of a chair for transporting a person along a ground surface. Ezenwa teaches a patient transport that can be converted from a bed into a chair (compare Figs. 2 and 3). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified Hopper to include the ability of converting the bed into a chair (thus creating a device in the form of a chair for transporting a person along a ground surface), in view of Ezenwa, thereby achieving the desirable result of creating a device that allows for a user to be transported in an upright position, in the event that such a position is more comfortable for a particular patient.

7. Claims 32, 33, 36, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hopper in view of Strong (US Pub. App. 2002/0175018). Hopper discloses all limitations of claim 32 except for a steering mechanism for collectively steering said plurality of castors in responsive to a controlling input from said driving unit. Strong discloses a steering mechanism for collectively steering a plurality of castors in responsive to a controlling input from said driving unit (Abstract, ¶¶ 0008-0020, 0055). Strong teaches that the device is capable of being used on any type of wheeled vehicle or device (¶ 0055). Strong teaches that using a steering mechanism of the type claimed is useful in "provid[ing] direct steering control at higher speeds or uneven traction condition for vehicle stability and yet maintains the advantages of free rotating dolly wheel maneuverability at low speeds" (¶ 0009). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified Hopper to utilize a steering mechanism for collectively steering said plurality of castors in responsive to a controlling input from said driving unit, in view of Strong, so as to achieve the desirable result providing direct steering control of the device at higher speeds and/or uneven traction condition for vehicle stability and also the ability to maintain the advantages of free rotating dolly wheel maneuverability at low speeds.

Regarding claim 33, the combination of Hopper in view of Strong further teaches that said castors are configured to selectively operate in any one three modes, including a neutral mode, a steering mode and a brake mode (specifically Strong teaches these limitations as applied to the combination).

Regarding claim 36, the combination of Hopper in view of Strong further teaches a steering system for collectively steering said plurality of castors in the steering mode responsive to a controlling input from said driving unit (this is taught because Hopper teaches a driving unit and this when viewed in combination with Strong's driving unit, controller and steering system renders the limitation obvious based on the combined teachings of the references).

Regarding claim 40, the combination of Hopper in view of Strong further teaches that said device is in the form of a bed for transporting a patient along a ground surface (note this is because Hopper as part of the combination teaches a bed).

8. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hopper in view of Strong, as applied to claims 32, 33, 36, and 40, further in view of Ezenwa (US 5,193,633). The combination of Hopper in view of Strong teaches all limitations of claim 42 except for said device is in the form of a chair for transporting a person along a ground surface. Ezenwa teaches a patient transport that can be converted from a bed into a chair (compare Figs. 2 and 3). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the combination of Hopper in view of Strong to include the ability of converting the bed into a chair (thus creating a device in the form of a chair for transporting a person along a ground surface), in view of Ezenwa, thereby achieving the desirable result of creating a device that allows for a user to be transported in an upright position, in the event that such a position is more comfortable for a particular patient.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSEPH ROCCA whose telephone number is (571)272-5191. The examiner can normally be reached on 8:30 AM to 5:00 PM, Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-7742. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph Rocca/
Examiner, Art Unit 3616

/Toan C To/
Primary Examiner, Art Unit 3616
May 9, 2010